



City of Prescott  
Purchasing Services  
216 S. Marina St., Suite 202  
Prescott, AZ 86303-3929

Bid 10FOD0006  
Automated Containers

The City of Prescott is soliciting bids for the purchase of automated containers. Sealed bids (one (1) original and one (1) copy) shall be opened on Thursday, September 17, 2009 at the time and place indicated in Section 2.2.

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1.0 Solicitation Specifications/Scope of Work

1.1 **BACKGROUND:** The purchase order awarded to the successful bidder will identify this amount as “not to exceed” and containers will be ordered by the truckload on an as needed basis.

1.2 **INSTRUCTIONS:** The specifications herein describe the minimum acceptable features and performance requirements for rollout waste containers the City intends to purchase for its citizens. Bidders are to have thoroughly read and understood these specifications prior to bid submission.

All bids must be submitted on the City’s form provided. Bidders shall complete the specification column with a check mark to indicate if the item being bid is exactly as specified. If an item is left blank, the City will assume the bidder cannot meet the specifications and may cause rejection of the bid.

By checking any of the “NO” spaces the bidder states that the product being bid does not conform to that specification. All variations and/or exceptions must be documented, referencing applicable paragraph(s), and explained in detail on a separate page titled “Exceptions”. If the City determines by any means that exceptions exist which were not identified on such list, then that bid will be disqualified as being non-responsive. If no exceptions are taken, it will be assumed that the bid meets all specifications as stated.

1.3 **MANUFACTURING PROCESSES AND MATERIALS:** Each rollout container shall consist of a body, lid, wheels, axle, and necessary accessories. The plastic resin material and the finished container must meet the minimum specifications herein.

		YES	NO
1.3.1	<b>MANUFACTURING PROCESS:</b> Each container body must be manufactured from an injection-molding or rotational molded process.		
1.3.2	<b>WALL THICKNESS:</b> The container shall have a nominal wall thickness of .170 inches throughout the body of the container. The container shall have a minimum wall thickness of .185 inches in the critical wear points (i.e. Cart bottom, handle, lift mechanism). Wall thickness must be maintained on every container throughout the life of the contract within a 5% tolerance. A \$25 penalty will be assessed to the vendor for every container that does not meet this specification		
1.3.3	<b>ULTRAVIOLET INHIBITORS:</b> The polymer (resin) used to manufacture the container must be stabilized to maintain a minimum of 80% loss of elongation over 5 years. Test results must be provided with bid package that proves that the polymer meets minimum specifications. Specifics to be decided.		

1.4 **CONTAINER REQUIREMENTS:**

		YES	NO
1.4.1	<b>ANSI CONFORMANCE:</b> Containers bid herein must meet the requirements of ANSI Z245.30-1999 and ANSI Z245.60-1999 standards for “Type B/G” containers. Bidder must submit independently certified copies of all ANSI test results with bid. Test results must state load (in pounds) under which tests were conducted. The load under which the tests were conducted must be the same as the load rating stated in all literature and specifications. The ANSI Appendix D test for “Loading and Unloading Test for Carts” must clearly state that the required 520 dump cycles under the cart’s full rated load were performed on both a Semi-Automated Cart Lifter <u>and</u> a Fully Automated Grabber Arm.		

1.4.2	<p><b>LOAD RATING:</b> Containers must be designed to regularly receive and dump the following pounds of waste materials, excluding the weight of the container, without permanent damage or deformation. The load rating must conform with ANSI Standard Z245.30-1999.</p> <p>Bidder must submit its normal printed color sales brochure which shows the exact product item bid and the corresponding load rating. Bidder must mark the location of the load rating on the brochure with a bold red arrow so as to aim directly at the load rating. Load rating stated on literature must exactly match all specifications, ANSI certification submitted with bidder's proposal, and the load rating permanently marked on the product.</p> <p style="text-align: center;"><b>96 Gallon:</b> STATE LOAD RATING - _____ pounds  <b>65 Gallon:</b> STATE LOAD RATING - _____ pounds</p>		
1.4.3	<p><b>WEIGHT:</b> The total weight of the fully assembled container shall be as follows:</p> <p style="text-align: center;"><b>96 Gallon</b> – 32 pounds minimum to 45 pounds maximum  <b>65 Gallon</b> – 25 pounds minimum to 40 pounds maximum</p> <p style="text-align: center;">STATE FULLY ASSEMBLED WEIGHT OF EACH SIZE –  <b>96 Gallon</b> - _____ pounds  <b>65 Gallon</b> - _____ pounds</p>		
1.4.4	<p><b>CAPACITY:</b> The total capacity of the container body, excluding the lid, must be 96 U.S. gallons, and 65 to 68 U.S. gallons (+/- 1%). Bidder must include an independent test result according to ANSI Z245.30, Appendix A (Volume Test), certified by an accredited professional engineer, showing the exact capacity of the cart body (to the nearest 0.1 U.S. gallon).</p> <p style="text-align: center;"><b>96 Gallon:</b> STATE BODY CAPACITY - _____ U.S. Gallons  <b>65 Gallon:</b> STATE BODY CAPACITY - _____ U.S. Gallons</p>		
1.4.5	<p><b>DIMENSIONS:</b> Please state the exterior dimensions of the completely assembled container:</p> <p><b>96 Gallon –</b>  STATE HEIGHT- _____ ”  STATE LENGTH- _____ ”  STATE WIDTH- _____ ”</p> <p><b>65 Gallon –</b>  STATE HEIGHT- _____ ”  STATE LENGTH- _____ ”  STATE WIDTH- _____ ”</p>		
1.4.6	<p><b>RIM OF BODY:</b> The upper rim of each body must consist of a closed tubular design, similar to square steel tubing, for maximum strength during collection. The rim must also include a ledge on which the lid rests to create a tight seal between body and lid. Rolled over or other rims that are open on the underside are NOT acceptable.</p>		
1.4.7	<p><b>HANDLES:</b> Each container must be equipped with two (2) handles, each a minimum of 1” diameter. The handles and handle mounts must be an integrally molded part of the container body. The</p>		

	handles shall be designed to afford the user positive control of the loaded cart at all times. The handles must not have the ability to rotate on their own axis at any time. Handles which are molded as part of the lid are unacceptable. Bolted-on handle mounts or bolted-on handles are unacceptable. Handles must conform to ANSI Z245.30 – 1994 section 6.1.4.2 regarding handles.		
1.4.8	LID: The lid shall be configured to ensure that it will not warp, bend, slump, or distort such an extent that it no longer fits the container properly or becomes otherwise unserviceable. The lid must be crowned in shape and designed to disallow entry of rain when in the closed position. The lid must open from a closed position through a full 270° arc. Living hinges and lid counter weights are unacceptable. Lid latches are unacceptable.		
1.4.9	BOTTOM: The bottom of the container must have a molded-in wear strip to protect against dragging. Container base must be impact resistant at all points (four corners and the center) of the base for durability. Screw-on, bolt-on, or pop-on wear guards are unacceptable.		
1.4.10	WHEELS: Wheels shall be 10" diameter and 1.75" wide with knobby treads. Wheels must be extra high molecular weight polyethylene capable of supporting 200 pounds per wheel.		
1.4.11	AXLE: The axle must be 5/8" diameter zinc chromate plated solid high strength steel fully supported by cart body. Axle must slide through two molded-in plastic journals in the cart bottom and must not be exposed to contents inside of container. Each molded-in axle journal must be at least 1" wide. Axles attached by means of bolts or rivets are unacceptable.		
1.4.12	STABILITY: Each container shall be stable and self-balancing when in the upright position, either loaded or empty. The container must be designed to withstand winds of up to 25 mph when empty. Containers must be easy for a citizen to tilt to the roll position when fully loaded while keeping both feet on the ground. Any container which is judged as too difficult to tilt when loaded to maximum capacity of material will be disqualified. Containers that require a foot fulcrum to assist in tilting the container are unacceptable.		
1.4.13	EASE OF ASSEMBLY AND DISASSEMBLY: Vendor shall supply a cart assembly instruction sheet with their response. The instruction sheet should include a list of container parts, a list of tools needed for assembly and a step by step description of how to assemble the container.  Preference will be given to carts that require the fewest number of people to assemble, that have the fewest number of assembly steps and have the least dependence on specialized tools for assembly/disassembly or repair.		
1.4.15	COLOR: The container body color shall be green or blue. Bidder must supply sample chips of the colors available with their bid. Surface treatments, spray-on finishes and materials that are not homogenous are not acceptable.		
1.4.16	Are any specialty colors such as granite available? If so, state any additional price per can for this option.		

1.5 **MARKINGS:** Each container must be permanently marked with letters/numbers, as follows:

**YES      NO**

1.5.1	SERIAL NUMBERS: Each container must have a serial number hot stamped in white on the front face of its body. The serial number		
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	shall be a 7 digit number starting with the size of the can i.e. 68, 65, 96. The can must also be stamped with manufactured date for warranty purposes. Serial numbers shall be in sequence beginning with a number designated by the City. The bidder will maintain a file that will identify the date of manufacture by the serial number.		
1.5.2	CITY SEAL: The Seal of the City shall be hot stamped onto both sides of the cart body.		
1.5.3	USER INSTRUCTIONS: Instructions for the safe use of the container must be molded into each lid. Instructions stating "NO HOT ASH" & "THIS SIDE FACES STREET" shall be in both English and Spanish.		
1.5.4	LOAD RATING: The load rating of the container must be raised-relief molded into the lid. Load rating shall be stated in both pounds and kilograms and in English and Spanish.		

**1.6 EXPERIENCE:**

		YES	NO
1.6.1	REFERENCES: Bidder must submit with its bid a reference list of municipalities currently using the bidder's products. The list must include at least ten (10) municipalities who currently have at least 20,000 carts in service. Include the name of the municipality, year of installation, contact person, phone number, and quantity for each reference. Failure to include these references will result in bid disqualification.		

**1.7 WARRANTY:** Bidder must submit with bid a document which clearly states the exact warranty of the bidder. The warranty must be for no less than ten (10) full years and must specifically provide for no-charge replacement of any component parts which fail in materials of workmanship for a period of ten (10) years after installation. Consideration will be given to bidders extending the warranty to 12 years but shall in no way guarantee the successful bid. The bidders warranty is understood to include, whether stated in bidder's warranty or not, the following coverage:

		YES	NO
1.7.1	Failure of the lid to prevent rain water from entering the container when in the closed position.		
1.7.2	Damage to the container body, lid, or any component parts through opening or closing the lid.		
1.7.3	Failure of the lower lift bar from damage during interface with lifters.		
1.7.4	Failure of the body and lid to maintain their original shape.		
1.7.5	Damage or cracking of the container body through normal operating conditions.		
1.7.6	Failure of the wheels to provide continuous, easy mobility, as originally designed.		
1.7.7	Failure of any part to conform to minimum standards as specified herein.		
1.7.8	If bidder is owned by another business entity, then the owning entity must also accept full financial responsibility for the warranty of the bidder. The bidder must submit with their bid a letter from the owning entity which clearly states its obligation and commitment to honor the warranty of the bidder, should the bidder ever be in a position to not do so. Such letter shall be signed by the owning entity's top officer and notarized.		
1.7.9	Warranty specimen of exact warranty offered must be included with proposal.		
1.7.10	Will extend warranty for a total period of 12 years.		
1.7.11	Will recycle old containers and give a price reduction per can towards		

	new container. If yes, state terms.		
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1.8 **LEGAL OR ADMINISTRATIVE SETTLEMENTS:** The manufacturer of the cart must submit the name, contact name and telephone number for each government or agency with which it has had a legal or administrative settlement of warranty, cart failure claims or contract performance within the last five (5) years including ongoing negotiations of settlement. Include a brief summary of the settlement or indicate if a “gag order” was imposed, and by whom it was ordered. This information must be provided on a separate page entitled “Legal or Administrative Settlements.”

**2.0 Solicitation Process Requirements**

2.1. **Communications with the City:** All communications regarding this solicitation must be directed in writing to the Purchasing Division. Unless authorized by the Purchasing Manager, no other City official or employee is empowered to speak for the City with respect to this solicitation. Bidders are advised that the City shall not be bound by information, clarifications, or interpretations from other City officials or employees. Bidders are cautioned against contacting any City official or employee other than the Buyer for this solicitation. Failure to observe this requirement may be grounds for rejection of Bidder’s bid. The City’s buyer for this solicitation is:

Dawn M. Foster, Purchasing Manager  
City of Prescott  
Purchasing Services Division  
Fax: 928-777-1241  
E-mail: purchasing@cityofprescott.net

2.2. **Schedule**

2.2.1. **Solicitation Advertisement**

Sunday, September 6, 2009

2.2.2. **Deadline for Questions**

Thursday, September 10, 2009 COB

2.2.3. **Deadline for Issuance of Addenda via website at [www.prescott-az.gov/business/bids](http://www.prescott-az.gov/business/bids)**

Friday, September 11, 2009 COB

2.2.4. **Bids Due (one (1) original and two (2) copies)**

Thursday, September 17, 2009 at 2:00 pm

Prescott City Hall Main Reception

Attn: Purchasing Division

201 S. Cortez St.

Prescott, AZ 86302

2.2.5. **Bid Opening**

Thursday, September 17, 2009 at 2:00 pm

City of Prescott

City Council Chambers

201 S. Cortez St.

Prescott, AZ 86302

2.3. **Questions and Requests for Addenda**

Bidders who have questions about or suggestions for changes to this solicitation may direct them to the City’s Buyer in writing by fax or email. Questions and requests for addenda must be received by the City’s Buyer no later than the date and time listed in Section 2.2. Questions received after this time will not be considered or answered. Failure by a Bidder to request clarification of any inadequacy, omission or conflict shall not relieve the Bidder of the responsibility of being in compliance with the solicitation.

2.4. **City Answers and Addenda**

Changes to this solicitation will be made only by formal written addenda issued by the City’s Buyer. Any such addenda and City answers to questions will be issued no later than the date and time listed in Section 2.2. Addenda and City answers will be posted on the City’s website at [www.prescott-az.gov/business/bids](http://www.prescott-az.gov/business/bids). Changes to this solicitation may be made by the City if, in the sole judgment of the City, the changes will not compromise the City’s objectives in this acquisition. All addenda issued by the City shall become a part of the specifications of this solicitation, and will be made part of the resulting agreement.

2.5. **Proprietary Material**

A Bidder shall clearly mark any proprietary information contained in its bid with the words "proprietary information." Bidder shall not mark any Solicitation Form as proprietary. Marking all or nearly all of a bid as proprietary may result in rejection of the bid. Bidders should be aware that the City is required by law to make its records available for public inspection. The Bidder, by submission of materials marked proprietary, acknowledges and agrees that the City will have no obligation to advocate for non-disclosure in any forum or any liability to the Bidder in the event that the City must legally disclose these materials.

2.6. **Multiple Bids**

A Bidder may submit multiple bids for any solicitation however each bid must be clearly identified as separate from the others.

2.7. **Delivery of Bids**

Sealed bids (one (1) original and one (1) copy) must be received and stamped at Prescott City Hall Main Reception no later than the date and time listed in Section 2.2. The bids will be opened and read publicly in the Council Chambers at that time or shortly thereafter.

If the bid is delivered by the U.S. Postal Service, the bid should be addressed to:

Purchasing Division Bid  
City of Prescott  
PO Box 2059  
Prescott, AZ 86302

If the bid is delivered by an entity other than the U.S. Postal Service, the bid should be addressed to:

Purchasing Division Bid  
City of Prescott  
201 S. Cortez St.  
Prescott, AZ 86303

Bidder shall enclose bid (one (1) original and one (1) copy) in a sealed envelope. The outside of the envelope shall identify the Bidder's name, mailing address, Solicitation and Title, and the time and date of opening. The City shall not consider late bids, telegraphic (fax) or telephone bids. Bidder is solely responsible for ensuring that bids are delivered on time. Delays caused by any delivery service, including the U.S. Postal Service, will not be grounds for an extension of the deadline for receipt of bids. Bids received after the deadline will be filed unopened.

2.8. **Cost of Bids**

The City shall not be liable for any costs incurred by Bidder in the preparation and submittal of a bid(s) in response to the solicitation or in the participation of any part of the acquisition process.

2.9. **Errors in Bids**

Bidder is responsible for all errors or omission in their bids, and any such errors or omission will not serve to diminish their obligations to the City.

2.10. **Withdrawal of Bids**

A bid may be withdrawn by written request of the Bidder prior to the bid due date and time listed in Section 2.2. No bid may be withdrawn for a period of 120 calendar days after the bid due date and time.

2.11. **Changes in Bids**

Prior to the bid due date and time listed in Section 2.2, a Bidder may make changes to its bid provided the change is initialed and dated by the Bidder. Corrections and/or modifications received after the closing time specified will not be accepted.

2.12. **Rejection of Bids**

The City reserves the right to reject any and all bids and to waive any immaterial defects and irregularities in bids.

2.13. **Disposition of Bids**

All materials submitted in response to the solicitation, including samples, shall become the property of the City upon delivery to the City.

2.14. **Incorporation of Solicitation and Response in Agreement**

This solicitation, including all attachments and addenda, and all promises, warranties, commitments and representations in the successful bid shall be binding and shall become obligations of the agreement.

2.15. **Protests**

Any protest of a notice that a bid is non-responsive must be filed by 5:00 p.m. on the third business day after such notification. All such protests shall be in writing, contain a complete statement of the grounds for protest, and be filed with the Purchasing Manager, PO Box 2059, Prescott, AZ 86302, FAX 928-777-1234. Protesting parties must demonstrate as part of their protest that they made every reasonable effort within the schedule and procedures of this solicitation to resolve the basis or bases of their protest during the solicitation process, including asking questions, seeking clarifications, requesting addenda, and otherwise alerting the City to perceived problems so that corrective action could be taken prior to the selection of the Apparent Successful Bidder(s). The City will not consider any protest based on items which could have been or should have been raised prior to the deadline for submitting questions or requesting addenda. The filing of a protest shall not prevent the City from executing an agreement with any other bidder.

2.16. **Bid Submittal**

Bid (one (1) original and two (2) copies) must be sealed and the envelope must clearly indicate the information as described in Section 2.9. Bidder must fully complete and submit the following documents:

- 2.18.1. Bid Form A - Bidder Response Cover Sheet
- 2.18.2. Bid Form B - Price Sheet
- 2.18.3. Bid Form C - Bid Certification
- 2.18.4. Bid Form D - Non-Collusion Certificate
- 2.18.5. Bid Form E – Contractor Questionnaire
- 2.18.6. Bid Form F – Certificate of Ownership
- 2.18.7. Bid Form G – Bidder Optional Information
- 2.18.8. Bid Form H – Bidder Qualifications, Representations and Warranties

3.0 General Contract Terms and Conditions

- 3.1. **Entire Agreement**: This contract, including all attachments referenced herein, constitutes the entire agreement between the City and the Contractor. The City's RFQ/RFP, all addenda to the RFQ/RFP, and the Contractor's response to the RFQ/RFP are explicitly included in this contract. Where there is any conflict among or between any of these documents, the controlling document shall be the first listed in the following sequence: the most recently issued Contract amendment; the Contract; the most recently issued addendum to the City's RFQ/RFP; the City's RFQ/RFP; and the Contractor's response to the RFQ/RFP.
- 3.2. **Term**: The term of this Contract shall commence on the date the City's Purchasing Agent signs the same and shall expire as stated within the Contract.
- 3.3. **Freight**: Prices include freight prepaid and allowed. The Contractor assumes the risk of every increase, and receives the benefit of every decrease, in delivery rates and charges.
- 3.4. **Title**: Prices are F.O.B. destination. Title to items and risk of loss remain with Contractor until City receives items at the delivery point.
- 3.5. **Overages/Undergoes**: Shipments shall correspond with the Contract; any unauthorized advance or excess shipment is returnable at Contractor's expense.
- 3.6. **Schedule**: Unless the City's Purchasing Agent requests a change in schedule, the Contractor shall deliver the items or render the services as stated in the Contract. At the City's option, the Contractor's failure to timely deliver or perform may require expedited shipping at the Contractor's expense, or may be cause for termination of the Contract and the return of all or part of the items at the Contractor's expense. If the Contractor anticipates difficulty in meeting the schedule, the Contractor shall promptly notify the City's Purchasing Agent of such difficulty and the length of the anticipated delay.
- 3.7. **Payment**: Invoices will be paid according to early payment discount terms, or if no early payment discount is offered, thirty (30) days after the City's receipt and acceptance of the goods or completion and acceptance of the services. Payment periods will be computed from either the date of delivery of all goods ordered, the completion of all services, or the date of receipt of a correct invoice, whichever date is later. This section is not intended to restrict partial payments that are specified in the contract. No payment shall be due prior to the City's receipt and acceptance of the items identified in the invoice therefore.
- 3.8. **Unlawful Overcharges**: The Contractor assigns to the City all claims for anti-trust violations and overcharges relating to items purchased by the City.

- 3.9. **Price Warranty:** The Contractor warrants that the prices for the items sold to the City hereunder are not less favorable than those currently extended to any other customer for the same or similar items in similar quantities. The Contractor warrants that prices shown on this Contract are complete, and that no additional charge of any type shall be added without the City's express written consent.
- 3.10. **Warranties:** The Contractor warrants that all goods are merchantable, comply with the City's latest drawings and specifications, and are fit for the City's intended use; all goods comply with all applicable safety and health standards established for such products; all goods are properly packaged; and all appropriate instructions or warnings are supplied.
- 3.11. **Date Warranty:** Vendor warrants that all Software provided under this Contract: (i) does not have a life expectancy limited by date or time format; (ii) will correctly record, store, process, and present calendar dates; (iii) will lose no functionality, data integrity, or performance with respect to any date; and (iv) will be interoperable with other software used by Purchaser that may deliver date records from the Software, or interact with date records of the Software ("Date Warranty"). In the event a Date Warranty problem is reported to Vendor by Purchaser and such problem remains unresolved after three (3) calendar days, at Purchaser's discretion, Vendor shall send, at Vendor's sole expense, at least one (1) qualified and knowledgeable representative to Purchaser's premises. This representative will continue to address and work to remedy the failure, malfunction, defect, or nonconformity on Purchaser's premises. This Date Warranty shall last perpetually. In the event of a breach of any of these representations and warranties, Vendor shall indemnify and hold harmless Purchaser from and against any and all harm, injury, damages, costs, and expenses incurred by Purchaser arising out of said breach.
- 3.12. **Equal Employment Opportunity:** During the term of this Contract, the Contractor agrees as follows: The Contractor will not discriminate against any employee or applicant for employment because of creed, religion, race, color, sex, marital status, sexual orientation, gender identity, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their creed, religion, race, color, sex, national origin, or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- 3.13. **Diversity:** The City encourages the Contractor to employ a workforce reflective of the region's diversity.
- 3.14. **Discrimination in Contracting:** The Contractor shall not create barriers to open and fair opportunities for subcontractors and suppliers in obtaining or competing for contracts and subcontracts as sources of supplies, equipment, construction and services. In considering offers from and doing business with subcontractors and suppliers, the Contractor shall not discriminate on the basis of race, color, creed, religion, sex, age, nationality, marital status, sexual orientation or the presence of any mental or physical disability in an otherwise qualified disabled person.
- 3.15. **Record-Keeping:** The Contractor shall maintain, for at least 12 months after expiration or earlier termination of the term of this Contract, relevant records and information necessary to document the Contractor's utilization of other businesses as subcontractors and suppliers in this contract and in its overall public and private business activities. The Contractor shall also maintain all written quotes, bids, estimates, or proposals submitted to the Contractor by all businesses seeking to participate as subcontractors or suppliers in the contract. The City shall have the right to inspect and copy such records. If this Contract involves federal funds, the Contractor shall comply with all record-keeping requirements set forth in every applicable federal rule, regulation and statute referenced in the contract documents.
- 3.16. **Publicity:** The Contractor shall not advertise or publish the fact that the City has contracted to purchase items from the Contractor without the City's prior written approval.
- 3.17. **Proprietary and Confidential Information:** The Contractor acknowledges that the City is required by law to make its records available for public inspection, with certain exceptions. City staff believes that this legal obligation would not require the disclosure of proprietary descriptive information that contains valuable designs, drawings or formulas. The Contractor, by submission of materials marked proprietary and confidential, nevertheless acknowledges and agrees that the City will have no obligation or any liability to the Contractor in the event that the City must disclose these materials by law.

3.18. **Indemnification:** To the extent permitted by law, the Contractor shall protect, defend, indemnify and hold the City harmless from and against all claims, demands, damages, costs, actions and causes of actions, liabilities, judgments, expenses and attorney fees, resulting from the injury or death of any person or the damage to or destruction of property, or the infringement of any patent, copyright, or trademark, arising out of the work performed or goods provided under this Contract, or the Contractor's violation of any law, ordinance or regulation, except for damages resulting from the sole negligence of the City.

**Insurance:**

1. **Commercial General Liability – Occurrence Form**

Policy shall include bodily injury, property damage and broad form contractual liability coverage.

- General Aggregate \$2,000,000
- Products – Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000
- Each Occurrence \$1,000,000

a. The policy shall be endorsed to include the following additional insured language: "**The City of Prescott shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor**".

2. **Automobile Liability**

Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) \$1,000,000

a. The policy shall be endorsed to include the following additional insured language: "**The City of Prescott shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, including automobiles owned, leased, hired or borrowed by the Contractor**".

3. **Worker's Compensation and Employers' Liability**

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$100,000
Disease – Each Employee	\$100,000
Disease – Policy Limit	\$500,000

a. Policy shall contain a **waiver of subrogation** against the City of Prescott.

3.19. **Compliance with Law:** The Contractor, at its sole cost and expense, shall perform and comply with all applicable laws of the United States and the State of Arizona; the Charter, Municipal Code, and ordinances of The City of Prescott; and rules, regulations, orders, and directives of their respective administrative agencies and officers.

3.20. **Licenses and Similar Authorizations:** The Contractor, at no expense to the City, shall secure and maintain in full force and effect during the term of this Contract all required licenses, permits, and similar legal authorizations, and comply with all related requirements.

3.21. **Taxes:** The Contractor shall pay, before delinquency, all taxes, levies, and assessments arising from its activities and undertakings under this Contract; taxes levied on its property, equipment and improvements; and taxes on the Contractor's interest in this Contract.

3.22. **Americans with Disabilities Act:** The Contractor shall comply with all applicable provisions of the Americans with Disabilities Act of 1990 (ADA) in performing its obligations under this Contract. In particular, if the Contractor is providing services, programs, or activities to City employees or members of the public as part of this Contract, the Contractor shall not deny participation or the benefits of such services, programs, or activities to people with disabilities on the basis of such disability. Failure to comply with the provisions of the ADA shall be a material breach of, and grounds for the immediate termination of, this Contract.

3.23. **Adjustments:** The City's Purchasing Agent at any time may make reasonable changes in the place of delivery, installation or inspection; the method of shipment or packing; labeling and identification;

- and ancillary matters that Contractor may accommodate without substantial additional expense to the City.
- 3.24. **Amendments:** Except for adjustments authorized above, modifications or amendments to the Contract may only be made by a change order or by written document signed by or for both parties. Unless Contractor is otherwise notified, the City's Purchasing Agent shall be the City's authorized agent.
  - 3.25. **Assignment:** Neither party shall assign any right or interest nor delegate any obligation owed without the written consent of the other, except Contractor may assign the proceeds of this Contract for the benefit of creditors upon 21 days advance written notice to the City.
  - 3.26. **Binding Effect:** The provisions, covenants and conditions in this Contract apply to bind the parties, their legal heirs, representatives, successors, and assigns.
  - 3.27. **Waiver:** The City's failure to insist on performance of any of the terms or conditions herein or to exercise any right or privilege or the City's waiver of any breach hereunder shall not thereafter waive any other term, condition, or privilege, whether of the same or similar type.
  - 3.28. **Applicable Law:** This Contract shall be construed under the laws of the State of Arizona. The venue for any action relating to this Contract shall be in the Superior Court for Yavapai County, State of Arizona.
  - 3.29. **Remedies Cumulative:** Remedies under this Contract are cumulative; the use of one remedy shall not be taken to exclude or waive the right to use another.
  - 3.30. **Severability:** Any invalidity, in whole or in part, of any provision of this Contract shall not affect the validity of any other of its provisions.
  - 3.31. **Gratuities:** The City may, by written notice to the Contractor, terminate Contractor's right to proceed under this Contract upon one (1) calendar day's notice, if the City finds that any gratuity in the form of entertainment, a gift, or otherwise was offered or given by the Contractor or any agent thereof to any City official, officer or employee.
  - 3.32. **Termination:**
    - 3.32.1. **For Cause:** Either party may terminate this Contract in the event the other fails to perform its obligations as described herein, and such failure has not been corrected to the reasonable satisfaction of the other in a timely manner after notice of breach has been provided to such other party.
    - 3.32.2. **For Reasons Beyond Reasonable Control of a Party:** Either party may terminate this Contract without recourse by the other where performance is rendered impossible or impracticable for reasons beyond such party's reasonable control such as but not limited to an act of nature; war or warlike operations; civil commotion; riot; labor dispute including strike, walkout, or lockout; sabotage; or superior governmental regulation or control.
    - 3.32.3. **For Public Convenience:** The City may terminate this Contract in whole or in part whenever the City determines that such termination is in its best interest (including but not limited to for lack of continuing appropriations). In such a case the Contractor shall be paid for all items accepted by the City.
    - 3.32.4. **Notice:** Notice of termination shall be given by the party terminating this Agreement to the other not less than ten (10) working days prior to the effective date of termination.
  - 3.33. **Major Emergencies or Disasters:** The following provision shall be in effect only during major emergencies or disasters. The City is committed to preparing thoroughly for any major emergency or disaster situation. As part of its commitment, the City is contracting with the Contractor under the following terms and conditions: Contractor shall provide to the City, upon the City's request, such goods and/or services at such time as the City determines. In the event the Contractor is unable to meet the delivery date commitment due to circumstances beyond the reasonable control of the Contractor, the Contractor shall make such delivery as soon as practicable. If the Contractor is prevented from making such delivery to the requested delivery location due to circumstances beyond its reasonable control, the Contractor shall immediately assist the City in whatever manner is reasonable to gain access to such goods and/or services. In the event that the Contractor is unable to provide such goods and/or services as requested by the City, the Contractor may offer to the City limited substitutions for its consideration and shall provide such substitutions to the City as required above, provided the Contractor has obtained prior approval from the City for such substitution. The Contractor shall charge the City the price determined in this Contract for the goods and services provided, and if no price has been determined, it shall charge the City a price that is normally charged for such goods and/or services (such as listed prices for items in stock). In the event that the City's request results in the Contractor incurring unavoidable additional costs and causes the

Contractor to increase prices in order to obtain a fair rate of return, the Contractor shall provide the City with appropriate documentation of the additional costs. The Contractor acknowledges that the City is procuring such goods and/or services for the benefit of the public. The Contractor, in support of public good purposes, shall consider the City as a customer of first priority and shall make its best effort to provide to the City the requested goods and/or services in a timely manner. For purposes of this Contract, a "major emergency" or "disaster" shall include, but is not limited to a storm, high wind, earthquake, flood, hazardous material release, transportation mishap, and loss of any utility service, fire, terrorist activity or any combination of the above.

#### 4.0 Standard Bid Information

- 4.1. **Default by Bidder:** In case of default by the bidder, the City of Prescott may procure the items or service from other sources and may deduct from any monies due or that may thereafter become due to the bidder the difference between the price named in the contract or purchase order and the actual cost thereof to the City of Prescott. Prices paid by the City shall be considered the prevailing market price at the time such purchase is made. Periods of performance may be extended if the facts as to the cause of delay justify such extension in the opinion of the Purchasing Agent.
- 4.2. **Cash Discounts:** In connection with any cash discount specified on this bid, time will be computed from the date of complete delivery of the supplies, equipment or services as specified or from the date correct invoices are received in the City Finance office if the latter date is later than the date of delivery. For the purpose of earning the discount, payment is deemed to be made on the date of mailing of the City warrant or check.
- 4.3. **Warranty:** Manufacturer's warranties shall remain in effect. All equipment purchased shall be purchased from one (1) vendor. That one vendor shall be fully responsible for all warranty performance relating to any part of component of the purchased equipment. The vendor's responsibility shall include all warranty involving sub-contractors. The vendor shall supply a warranty on all parts and workmanship from the initial delivery date. The vendor shall guarantee further that the equipment to be supplied complies with all applicable regulations.
- 4.4. **Litigation:** The parties hereto expressly covenant and agree that in the event of a dispute arising from this Agreement, each of the parties hereto waives any right to a trial by jury. In the event of litigation, the parties hereby agree to submit to a trial before the Court. Neither party shall be entitled to an award of attorneys' fees, either pursuant to the Contract or another other state or federal statute.
- 4.5. **Cooperative Use of Contract:** This contract may be extended for use by other municipalities, school districts and government agencies in the State of Arizona with the approval of the contracted vendor. Any such usage by other entities must be in accordance with the statutes, codes, ordinances, charter and/or procurement rules and regulations of the respective government agency.
- 4.6. **Brand Names:** Brand names are only used for reference to indicate character or quality desired unless otherwise indicated.

#### 5.0 Instructions for Submittal Forms

- 5.1. Form A - Solicitation Response Cover Sheet: Bidder shall complete, sign, and submit Form A as the first page of the bid package
- 5.2. Form B - Price Sheet: Bidder shall certify that its bid will be valid for 120 days after submission. Bidder may be asked to extend this certification. Bidder shall complete, sign, and submit Form B.
- 5.3. Form C - Bid Certification: Bidder shall complete, sign, and submit Form C
- 5.4. Form D - Non-Collusion Certificate: Bidder shall complete, sign, and submit Form D.
- 5.5. Form E - Contractor Questionnaire: Bidder shall complete, sign, and submit Form E.
- 5.6. Form F - Certificate of Ownership: Bidder shall complete, sign, and submit Form F completely and accurately stating the names and addresses of all persons, firms, corporations, partnerships or other associations having any direct or indirect financial interest in the Bidder's business and the nature and extent of each such interest.
- 5.7. Form G - Bidder Optional Information: Form G is for informational purposes only, is not required to be answered or submitted, and responses will not be taken into consideration in bid evaluation, or in agreement award or administration. Bidder may complete, sign, and submit Form G.
- 5.8. Form H - Bidder Qualifications, Representations and Warranties
  - 5.8.1. Bidder shall complete and submit Solicitation Form H. Bidder shall provide additional information as required.
  - 5.8.2. The City reserves the right to inspect any of Bidder's facilities and equipment after the bid due date and time listed in Section 2.2. The Bidder shall make such facilities and equipment available

for the City's inspection within eight business hours of the City's request. The City may require additional information concerning a Bidder's facilities, equipment, personnel, and procedures. The Bidder shall supply such information within the time noted in the City's request.

5.8.3. The City shall consider awarding agreements only to responsible Bidders. Responsible Bidders are those that have, in the sole judgment of the City, the financial ability, character, reputation, resources, skills, capability, reliability, and business integrity necessary to perform the requirements of the agreement.

5.8.4. In determination of responsibility, the City may consider all information available to the City, whether specifically provided by the Bidder in response to this solicitation or other information otherwise available to the City in evaluating the responsibility of the Bidder. Such information may include, but is not limited to, experience and history of the City with current and/or prior contracts held by the Bidder with the City or with other agencies, references provided by the Bidder to the City, information provided by the Bidder as part of the solicitation responses, and information not specifically provided by the Bidder but is otherwise available to the City and has merit in consideration of responsibility, in the opinion of the City. The evaluation of responsibility shall be determined by the City and shall be in the sole opinion of the City. Such evaluation by the City shall be final and not subject to appeal. Furthermore, no agreement will be awarded to a Bidder if any owner of such Bidder has been convicted within the past ten years of a crime involving dishonesty or false statements, or if the Bidder has unsatisfied tax or judgment liens.

5.8.5. Bidder shall provide two (2) references, a sub-contractors list (if applicable) and certify there are no unsatisfied tax liens or judgments on record. Bidder shall complete, sign and submit Form H.

**Form A – Solicitation Response Cover Sheet**



City of Prescott  
Solicitation Response

Solicitation Number: \_\_\_\_\_

Description:.....  
\_\_\_\_\_

Please note all that apply:

96-Gal Container Unit  
Price.....\$ \_\_\_\_\_

65-Gal Container Unit  
Price.....\$ \_\_\_\_\_

Addenda Number(s) Received (if any)  
..... \_\_\_\_\_

Original Forms A through H plus two (2) photocopies

Business Name: \_\_\_\_\_

Business Address: \_\_\_\_\_  
\_\_\_\_\_

Business Phone: (\_\_\_\_\_) \_\_\_\_\_

Business Contact: \_\_\_\_\_

Contractor Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Form B – Price Sheet**

Item	Truckload Quantity	Unit Price
96 Gallon Container	_____	\$ _____
65 Gallon Container	_____	\$ _____
Shipping/Freight Costs for Truckload (FOB Prescott)		\$ _____
	Applicable Tax _____%	\$ _____
	Total	\$ _____

Delivery of Units (FOB Prescott) Shall Occur Within \_\_\_\_\_ Days Following Supplier Receipt of Order

**Payment Terms:** \_\_\_\_\_

(The City's payment terms are N30 but discounts will be taken as offered when practical - ie. 2% 10 N30)

**Dated this** \_\_\_\_\_ **day of** \_\_\_\_\_ **2009.**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Title**

**Form C – Bid Certification**

**Bidder Name:** \_\_\_\_\_

**The undersigned Bidder hereby certifies as follows:**

**C.1** That he/she has read The City of Prescott’s solicitation documents, its appendices and attachments, and the following Addenda, and to the best of his/her knowledge, has complied with the mandatory requirements stated therein.

Addendum	Issue Date
_____	_____
_____	_____

**C.2** That he/she has had opportunity to ask questions regarding the solicitation, and that such questions having been asked, have been answered by the City.

**C.3** That the Bidder’s bid consists of the following:

1. Form A – Solicitation response package cover sheet
2. Form B – Price Sheet
3. Form C – Bid Certification
4. Form D – Non-Collusion Certificate
5. Form E – Contractor Questionnaire
6. Form F – Certificate of Ownership
7. Form G – Optional Bidder Information
8. Form H – Bidder Qualifications, Representations and Warranties; Bidder to provide attachment:  
Attachment – Subcontractor’s List

**C.4** That the Bidder’s bid is valid for 90 days.

**Dated this** \_\_\_\_\_ **day of** \_\_\_\_\_ **2009.**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Title**

**Form D – Non-Collusion Certificate**

**Bidder Name:** \_\_\_\_\_

**The undersigned Bidder hereby certifies as follows:**

To the best of his/her knowledge, the person, firm, association, partnership or corporation herein, has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive pricing in the preparation and submission of a bid to The City of Prescott for consideration in the award of this solicitation.

**Dated this** \_\_\_\_\_ **day of** \_\_\_\_\_ **2009.**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Title**

**Form E – Contractor Questionnaire**

Yes - No

- 1. Has the City of Prescott or other governmental entity incurred costs as a result of contested change order (s) from the undersigned company?
- 2. Has the City of Prescott or other governmental entity been involved in litigation relative to contract performance with the undersigned company?
- 3. Has the undersigned company failed to meet bid specifications or time limits on other contracts?
- 4. Has the undersigned company abandoned a contract or refused to perform without legal cause after submitting a bid?
- 5. Has the undersigned company had bidding errors or omissions in two or more bid submissions within a thirty-six month period?
- 6. Has the undersigned company failed to perform or performed unsatisfactory of two or more contracts within a thirty-six month period.
- 7. Does the undersigned company have adequate equipment, personnel and expertise to complete the proposed contract?
- 8. Does the undersigned company have a record of safety violations in two or more contracts within a thirty-six month period?
- 9. Does the undersigned have a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such a contract or subcontract within a ten-year period?
- 10. Has the undersigned company been convicted of a criminal offense within a ten-year period of embezzlement, theft, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which might affect responsibility as a municipal contractor?
- 11. Has the undersigned company been convicted of state or federal antitrust statues within a ten-year period arising out of submission of bids or proposals?
- 12. Has the undersigned company been disbarred or a similar proceeding by another governmental entity?

**If you answered “yes” to Items 1-6 or 8-12 or answered “no” to Item 7, please attach a full explanation to this questionnaire.**

Company: \_\_\_\_\_

Address: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
(please print) (please print)

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Form F – Certificate of Ownership**

**Bidder Name:** \_\_\_\_\_

**The undersigned Bidder hereby certifies as follows:**

To the best of his/her knowledge, the person, firm, association, partnership or corporation herein, are the only person, firms, corporations, partnerships, or other associations having any direct or indirect financial interest in the Bidder's business as legal or equitable owner, creditor (except current bills for operating expenses), or holder of any security or other evidence of indebtedness.

**Dated this** \_\_\_\_\_ **day of** \_\_\_\_\_ **2009.**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Title**

**Form G – Bidder Optional Information**

**Bidder Name:** \_\_\_\_\_

Bid Form G is for informational purposes only, is not required to be answered or submitted, and responses will not be taken into consideration in bid evaluation, or in agreement award or administration. Bidder may complete, sign, and submit Bid Form G.

**Affirmative Efforts to Utilize WMBEs** – The City encourages the utilization of woman-owned and minority-owned businesses and the participation of such businesses in City bidding opportunities. The City requests Bidder to designate whether it is a State certified woman or minority owned business (WMBE), or whether the Bidder desires to self-identify as owned by women or minorities.

WMBE Status:

Certification:

Women’s Business Enterprise  
 Minority Business Enterprise  
 Minority and Women’s Business Enterprise  
 Disadvantaged Business Enterprise

WMBE Certification No. \_\_\_\_\_  
DBE Certification No. \_\_\_\_\_

Ethnicity:

Asian American  
 African American  
 Hispanic

Native American  
 White

Gender:  Male  Female

Self-Identification: If Bidder is not WMBE or DBE Certified, please select one category of ownership that best describes the ownership of Bidder:

Is Bidder at least 51% owned by one or more women?  Yes  No

Is Bidder at least 51% minority owned?  Yes  No

Ethnicity:

Asian American  
 African American  
 Hispanic

Native American  
 White

Gender:  Male  Female

**Form H – Bidder Qualifications, Representations and Warranties**

**Bidder Name:** \_\_\_\_\_

**The undersigned Bidder hereby certifies as follows:**

- H1 Taxes and Liens** - Bidder has no unsatisfied tax or judgment lien on record.
- H2 Subcontractors** – Bidder submits as Attachment 4 to this Bid Form A a list of all subcontractors it will use in performing the requirements of the agreement resulting from this solicitation. A subcontractor is any separate legal entity used to perform requirements of the proposed agreement. The list shall include the firm’s name, contact person and title, mailing address, telephone number, fax number and a description of the service(s) to be subcontracted. Bidder shall also attach a copy of the letter from the subcontractor stating its commitment to perform the services(s) subcontracted.
- H3 References** – The City will enter into an agreement only with a Bidder(s) having a reputation of satisfactory performance. The Bidder’s ability to provide timely service; knowledgeable, conscientious, and courteous staff; reasonable care and skill; invoicing consistent with contract pricing, etc., are important to the City. Bidder provides information for two clients, other than the City of Prescott, that presently contract with Bidder for similar goods or services:

Reference #1  
Firm Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Phone Number: \_\_\_\_\_

Reference #2  
Firm Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Phone Number: \_\_\_\_\_

Note: The bid evaluators may contact the customer references, as well as any other customers or customer employees including The City of Prescott. A Bidder with unsatisfactory references may have its bid rejected.

- H4 Bidder’s Examination** - Bidder has made its own examination, investigation and research regarding the requirements of the solicitation including but not limited to the work to be done, services to be performed, any conditions affecting the work and services, the type and quantity of labor, equipment and facilities necessary to perform. Bidder fully understands the character of the work and services, the manner in which payment is to be made, the terms and conditions of the draft agreement (see Appendix C), and the solicitation. Bidder acknowledges and agrees that it has satisfied itself by its own examination, investigation and research, and that it will make no claim against the City because of erroneous estimates, statements, or interpretations made by City. Bidder hereby proposes to furnish all materials, equipment, and facilities and to perform all labor which may be required to do the work within the time required and upon the terms and conditions provided in the draft agreement and the solicitation, and at the prices as bid.

**Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2009.**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Title**